

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

GREGORY C. BONTEMPS,

No. 2:22-cv-1741-TLN-KJN

Petitioner,

**ORDER**

v.

JOHN MERCHANT,

Respondent.

Petitioner, a state prisoner proceeding pro se, filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On April 21, 2023, the magistrate judge filed findings and recommendations herein which were served on all parties and which contained notice to all parties that any objections to the findings and recommendations were to be filed within fourteen days. On May 08, 2023, petitioner was granted a 30 day extension of time to file objections. Neither party filed objections to the findings and recommendations.

The Court presumes that any findings of fact are correct. *See Orand v. United States*, 602 F.2d 207, 208 (9th Cir. 1979). The magistrate judge's conclusions of law are reviewed de novo. *See Britt v. Simi Valley Unified School Dist.*, 708 F.2d 452, 454 (9th Cir. 1983). The Court has reviewed the file and finds the findings and recommendations to be supported by the record and

1 by the magistrate judge's analysis.

2 Accordingly, IT IS HEREBY ORDERED that:

3 1. The findings and recommendations filed April 21, 2023 (ECF No. 16) are ADOPTED  
4 IN FULL;

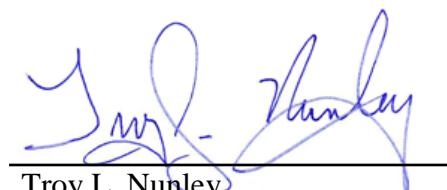
5 2. Respondent's motion to dismiss (ECF No 12) is GRANTED;

6 3. This action is DISMISSED without prejudice; and

7 4. The court declines to issue the certificate of appealability referenced in 28 U.S.C.

8 § 2253.

9 Dated: July 11, 2023

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13 Troy L. Nunley  
14 United States District Judge  
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